

PROCEEDINGS

MEMORY OF

ASSOCIATE JUSTICE JAGGARD.

On the afternoon of April 4, 1911, in the court room at the State Capitol, James D. Shearer, Esq., president of the Minnesota State Bar Association, and chairman of a committee to draft a memorial of Associate Justice Jaggard, addressed the Supreme Court, then in session, and read the following:

MEMORIAL

Edwin Ames Jaggard was born June 21, 1859, at Altoona, Pennsylvania, and was the son of Clement and Anna Jane (Wright) Jaggard. In 1879 he was graduated from Dickinson College, Carlisle, Pennsylvania. Three years later he secured his degree of Bachelor of Laws from the University of Pennsylvania. He came to Minnesota in 1882 and engaged in active legal practice in the city of St. Paul. In 1898 he was elected a Judge of the District Court of Ramsey county, and served one term on that bench. While a district judge in 1904, he was elected an Associate Justice of this Court and was re-elected at the general election held in November, 1910, remaining a member of this Court until his death. In 1887 he was chosen to succeed the late Senator Cushman K. Davis, as lecturer in the St Paul Medical College on medical jurisprudence. This college was subsequently merged with the medical department of the University, and he became a member of the faculty of the law department of that institution. He remained an honored and deeply beloved member of this faculty until his death.

He was the author of *Jaggard on Torts*, a recognized authority throughout the country. In recent years he published *Jaggard on Taxation in Minnesota and the Dakotas*, and *Jaggard on Taxation in Iowa*. He mastered the intricacies of this technical subject. He was also the author of articles on Malicious Prosecution and false Imprisonment, and the Historical Anomalies in the Law of Libel and Slander.

He was married in 1890 to Anna May Averill, the daughter of General and Mrs. John T. Averill, pioneer residents of Minnesota.

Few judges have been so close to the people. They knew him and loved him as a man. His presence was always a cheer. He was sympathetic and responsive to every human appeal. Endowed with the spirit of unflinching kindness, he was the personification of generosity. He had a genius for companionship. Friendliness was his birthright. A spirit of infinite patience and forbearance tempered his relations with others. He always tried to build—not destroy. He spread the mantle of charity over human failings and shortcomings. Barely has a man so completely entered into the life of this state. He was a welcome guest at every public gathering. In his addresses, he was both humorous and humanly philosophical. He was ardently fond of outdoor sports. His nature craved the outdoor life. This trait in a judge appealed to the hearts of the people. It broadened his vision and gave him a far-reaching perspective.

He was a scholarly author of wide research. An able judge of the closest application. He had a brilliant mind, which intuitively turned toward investigation. His method of reasoning was

scientific and his opinions were the result of unflagging industry, whose goal was the complete mastery of every subject.

He had a fatherly interest in the younger members of the bar of this state. Their love and affection for him was wholly responsive.

His character was notably shown in the enjoyment which he had in the companionship of his wife and in his love for children. In his death, the State has lost one of its best beloved and most distinguished citizens, this Court an able Judge.

We move that this brief expression of our sincere regard be spread upon the records of this Court.

James D. Shearer,
Charles W. Farnham,
Alf. E. Boyesen,
Thomas S. Wood,
John D. Sullivan,
Henry B. Wenzell,
Hugh T. Halbert.
Committee.

WILLIAM H. LIGHTNER, ESQ., then addressed the Court; and said:
May it please your Honors:

In seconding the motion in support of this memorial which pays so generous and well-deserved tribute to the memory of the late Mr. Justice Jaggard, it is hardly necessary to add a word.

It was my good fortune to have known intimately Mr. Justice Jaggard for nearly thirty years. When he made St. Paul his home, he spent some time in the office of the legal firm of which I was a member. As bachelors, we lived together. The friendship, commenced upon his coming to Minnesota, continued uninterrupted until his death.

He loved the sunshine and the cheerful side of life. He loved his fellow men; he was ever ready to aid them in their troubles, to encourage them in their successes, which he enjoyed with them. He was particularly fortunate in being free from any disposition to criticise the actions of others. Enthusiastic by nature, he applied himself to his legal studies with fervor, he devoted himself assiduously to the interest of his clients and with love for the companionship of men; as he advanced in his profession he made countless friends. Fired by a praiseworthy ambition to succeed in his chosen profession, with a well-educated mind, with a natural fondness for the study of the law and with enthusiasm supported by untiring energy, it is not surprising that in a comparatively short time he built up a good practice, was chosen District Judge, and while still a young man was elevated by a pronounced vote of the people to the high position which he occupied at the time of his death.

He brought to this bench a disposition to labor to maintain and, if possible, to improve the high standing of the court. He applied himself closely to the arguments, and studiously and patiently examined into the law. His opinions in this Court, many of which relate to most important questions, not only evince great learning and ability, but also exhibit patient thorough and painstaking investigation of authorities and discussion of legal questions. They show forth a broad and developing mind. Mr. Justice Jaggard had but served his apprenticeship upon this bench. Cut down in the prime of his life, it may be confidently asserted that the State has

suffered a great loss in being deprived of the great benefits that it would have derived from his ripened mind and his devotion to legal studies.

HOWARD T. ABBOTT ESQ., then addressed the Court, and said:
May it please the Court:

It is indeed fitting and proper that at such a time as this, we pause from our labors and daily tasks and gather together, the Bench and the Bar, to pay a last tribute to a just Judge and a sincere friend. I shall not touch upon the legal or judicial ability and qualifications of Judge Jaggard in the few words that I shall say. While I have the greatest admiration for him as a lawyer and a judge, I knew him so much better as a true gentleman, and as a sincere friend and companion, that my thoughts more quickly turned, upon hearing of his sudden end, to my own personal loss because of the friendship and association that had existed between us, than they did to the loss which the Court and Bar and the State had sustained. Of late years we had come to know each other well. He had been my personal guest upon numerous visits to Duluth, and was such last summer upon one of the outings which he was known so much to enjoy, and our plans were tentatively arranged for a similar but longer outing this coming summer. I have had in the last few years the extreme privilege of a very close personal association with him. I have often been favored with his innermost principles and ideals, and I knew him in his deeper personality and thoughts perhaps as well, or better, than many of his older friends. My intimate acquaintance with him was not of such long standing, covering possibly only a period of the last eight or ten years, but that friendship had developed and enlarged greatly as those few years passed, and when his sudden end came and the news thereof reached me, the loss was that of something which was very near and dear to me. The bar of the northern part of the state knew him well and were deeply grieved; they were his friends and he was theirs, and each felt that he had sustained an irreparable loss in his sudden demise.

Judge Jaggard had the inherent qualities to make the thorough gentleman that he was. He had many talents committed to him and consequently more work and engagements to attend to socially, as well as professionally, than one much less endowed. He had accomplishments and refinement of parts by birth, labor and education. He had the help of parentage, association, environment and friendships; he had honor and authority; he had many useful talents entrusted to him, and he did not hide them away or squander them for selfish purposes, but used them in his daily life, in his work and in the service of his friends. Often has he, to my knowledge, directed and advised in more than the ordinary ways, those who needed it, and encouraged many by his wisdom, and particularly was this true and applicable to the younger generation of attorneys. It was his gift to be hospitable, kind and helpful to all, and ever ready to meet friends and strangers with bountiful courtesies. It seemed his joy to cultivate his mind with knowledge, with all worthy accomplishments, befitting his condition and qualifying him for honorable thought and action in all walks of life, so that in very much and in all ways he excelled no less in real inward worth than in his genteel exterior appearance. He possessed to a marked extent the two essential qualities characteristic of the true gentleman,—courtesy and courage. It is a truism to say that, with these and other resources that he had, his conversation was at all times rich and instructive in no ordinary degree; that it was as pleasing as it was wise, and had all the charms of familiarity with all the treasures of knowledge. No man could be more social in spirit, more democratic in his demeanor with friends or strangers or more kind or indulgent towards those who approached him. He was much loved by all the youth who came in contact with him, and I speak from

personal knowledge when I say that his fondness and affection for children was immeasurable. Fond of conversation he was, and readily and quietly discoursed upon what was presented by those around him, and often astonished them by the treasures which he drew from the mine which they had, unconsciously perhaps, opened up. In conversation he seemed to have no choice or predilection for any one subject rather than another, but allowed his mind to be opened at any letter that his friends might choose to turn up, and selected from his inexhaustible supply what might be best adapted to the taste of those about him. This was true whether the subject was that of law, medicine, mathematics, music or the arts.

We will always recall the pleasant and genial smile so symbolical of the humor within, and the temperate jocularly which gave infinite zest and effect to what he had to say. By those who knew him best, who enjoyed his society apart from the daily duties, who enjoyed his friendship and his comradeship, it is these qualities and courtesies which will be ever before us.

I had no intimation of his ailment until last summer, when I noticed in the trout streams and on the forest trails his exhaustion and fatigue. I remarked upon it to him once or twice, but he made as little of it as possible, and always passed it off as of no consequence. It was, however, apparent to me that he was not in his usual health, and while I was aware of the last trip which he had taken and for what cause, I had no anticipation of its sudden and serious termination. It is hard to have his kind so suddenly removed from earthly activities; the State needs such character and citizenship as his, and will need it more and more; his friends will miss his kindly intercourse, but his genial personality and the many fond memories we have of him, no time can forget, nor distance wear away, but will remain with us forever.

HON. OSCAR HALLAM then addressed the Court, and said:

If your Honors please:

We are here to-day to pay a tribute to the memory of a friend, and perhaps to draw some lessons from an active and useful life; that is closed. There are those who say that such occasions as these are not worth while; and if there were nothing in life to be desired but meat and drink, then this were true; but it is upon such things as these that character is builded and the thoughts of men rise to higher things. There are those, too, who say that we might better spend our time in an endeavor to cheer the living rather than to praise the dead; but after all, I know of no loftier motive to right living than the consciousness that, if men live aright, their lives will be held in fragrant remembrance after they are dead.

Judge Jaggard will be remembered for many things. He filled official position creditably and well. He will be remembered for that. He instructed young men in the principles of law, and he will be remembered for that. He wrote useful books, and he will be remembered for that. But more than all these, he will be remembered for certain traits of heart and character. Some man in Baltimore said, shortly after his death, that Judge Jaggard's greatest work was not Jaggard on Torts or Jaggard on Taxation nor any other of his numerous intellectual achievements, but Jaggard on Humanity. He knew many people and he loved to meet them. He had many friends, and he loved to associate with them. He knew how to help people, and he loved to extend his assistance where it would afford help.

Judge Jaggard was a man of singular individuality. His mode of life, his manner of thought and work, his forms of expression, were singularly his own. I remember well the first time I ever heard him speak. It is now nearly twenty years ago. There were other talented men who spoke on that occasion. Of them I simply remember the fact that they spoke. Of him I

remember the theme, the treatment of it and many of the things that he said. I heard him speak many times afterward, and somehow, I knew not just why, I seemed to carry away more of what he said than I had expected I would. He possessed the singular faculty of impressing his thoughts and words in such manner that they would be remembered.

His written decisions were characteristic of the man. Open a volume of the *Minnesota Reports* to one of his opinions, start to read it in the middle or where you will, and it is likely that before you have read a page you will strike some expression that will make you say: "That sounds like Judge Jaggard." His writings bear the stamp of the writer's own individuality more than anything I have ever read.

When the news of his death came, I was sitting with a regent of the University and with a graduate of its college of law. With one accord they at once stated: There was one of the best beloved teachers that the university has ever had. The men of those classes clung to him, and his memory is entwined in their lives. He had and he exercised an influence beyond that of the mere position in life that he held, beyond that of his intellectual attainments or his intellectual achievements; it was the influence of a lovable character.

His last days among us furnish a beautiful example of Christian fortitude. We who knew him well and met him often did not know that he was suffering pain, and yet we know now that he was.

His life, his character, his example and his influence were such that we may truly say the world is measurably better that this man has lived.

HON. JULIUS HAYCRAFT then addressed the Court, and said:

If it please the Court:

It is my privilege to have known Judge Jaggard. It is my privilege to have claimed him as a friend; not exactly an intimate friendship such as is caused by daily association, yet intimate in the sense of men separated by some distance. It is my privilege to have been one of the young attorneys in this state in whom he manifested a fatherly interest. It is now my privilege to stand before this tribunal, before his associates and his successor, in the presence of the Bar of this state, and participate in his memorial exercises. I join with the authors of his memorial and with the gentlemen who have spoken, in their estimate of Judge Jaggard as a jurist, as a scholar, an author and an orator. Without detracting in the slightest degree from his worth in these accomplishments, yet I shall direct my remarks more particularly and specifically to Judge Jaggard, the man. While his claim to fame as a jurist, as a scholar and author is pre-eminently of an enduring nature and high degree, still it occurs to me that his greatest claim to fame and to fond remembrances in the hearts of the people is based upon his acts as a man. For he was a man in all the term, "man" implies; in all for which it stands. I can pay him no higher tribute, I can accord him no loftier panegyric, than to say of him in this sense he was a man, broadminded, large-hearted, charitable, kind, considerate, and lovable; traits which spell greatness in its truest sense. He was such a man as to whom unacquainted children would intuitively go to have him mend their toys, or act as arbiter of their disputes, and children are the best judges of human character.

Shortly before last Christmas, he said to a friend in this building that he was happy because he had all his presents arranged for. He was asked how many he remembered with Christmas presents; he replied about three hundred. I offer the statement that no one in this state remembered so many friends with presents on the anniversary of our Saviour's birth. Fishing

companions, country hosts on outing trips, neglected children, lawyers, statesmen, employees and associates; all came within the compass of his great and generous heart.

Judge Jaggard was pre-eminently a child of nature. He loved the brooks and rills, the lakes, the hills, the fields and meadows. He loved to hunt and fish, and, as he was wont to state it, "watch the pussy willows grow." His companions upon these jaunts invariably became his lifelong friends. It is told me that a native fisherman in this state who was careless about the exercise of his franchise, after a fishing expedition one summer with Judge Jaggard, appeared at the polling place at the next election, and to the surprise of all called for a ballot. In the booth he was assisted in marking. He said, "Where is Judge Jaggard's name? The name was indicated. He said, "Cross his name and fold the ballot; I do not care to vote for anybody else." It is these traits and these characteristics which warrant any tribute and any honor we may choose to accord our late lamented brother as a man. Give me a man like that who is charitable to all, who is kind to his neighbors, loves his friends, forgives his enemies, is true to his family, cherishes his wife, adores his children, worships his God, and I'll pay him tribute he never held an office.

Judge Jaggard is dead, but his memory lives; lives as lives the name of Mitchell, the name of Flandrau, the name of Davis and other distinguished characters of our profession in this state. And for months and years and decades to come will live the name, the illustrious name, Edwin A. Jaggard.

JAMES PAIGE, ESQ., then addressed the Court, and said:

If it please the Court:

Edwin A. Jaggard was a lecturer in the College of Law of University for nineteen years, and during that time wrote the two well known treatises on Torts and Taxation.

Such in mere outline is the history of the work of Judge Jaggard as a teacher of law. It is a privilege to speak of those attributes of mind, and that attractive personality which made him such a charming and successful teacher. As a student of law he approached it from its philosophical and analytical side, and the resolving of questions back to their elementary principles was his delight. He loved to trace the law's growth, its tendency, and sometimes to utter a prophetic word. He had a vivid and bright imagination, enabling him to make truths living and real to the student's mind. To these mental gifts was added that graciousness of manner and charming personality, with its broad human sympathy, which brought a smile from the class as he entered the room and made his lectures full of humor and incident. To one in the corridor rippling laughter over the transom might suggest an entertainment, but within the lecture room stories, touches of satire and pungent criticism were being used to fasten difficult points in the student's mind. This was Judge Jaggard's method of keeping the attention of the student by the force of his personality, using his charm as an individual to compel attention upon matters difficult of comprehension or possibly dreary and tiresome. He thought it worth while to put himself into his lectures, and it was worth while. His inextinguishable youth made him a young man among young men and established a comradeship, drawing students in clusters around him before and after his lectures. The work of his lectureship he regarded as serious, though his lectures were thus embellished with literary allusions and were brilliant with humor and satire. He never treated his work with indifference, and always arranged it on the bench and at the bar so as to meet his obligations to the bar of the state as a legal educator. His scholarship, his brilliancy, and his genial and loving personality insure him a living memory in the mind of alumni and faculty.

CHARLES W. FARNHAM, ESQ., Secretary of the Minnesota State Bar Association, then addressed the Court, and said:

May it please the Court:

Mr. Kay Todd, of the Ramsey County Bar, having been called from the city, has asked me to present his tribute, the testimonial of a protégé, pupil and friend.

With a sense of the deepest personal bereavement, I bear this testimony of my admiration and love for Edwin A. Jaggard. It was my great privilege to come under the influence of this wonderful man at a period when impressions are vivid and lasting, and the heart is warmed with the springs of youth. That acquaintance so formed continued for more than a dozen years, growing more intimate with the years. It was as a student in the University Law School that this friendship began.

As a lecturer, Judge Jaggard peculiarly impressed and held the students, both by the charming and interesting manner of the presentation of his subjects and by a certain broad, human sympathy which immediately placed every man in his classes on a plane of equality with their lecturer, and cemented a feeling of fraternity and comradeship which put every man upon his honor and drew from him the best that was in him, both as student and man. Every one whose privilege it has been to be a student in any of Judge Jaggard's classes has immediately become his warm personal friend and admirer; his follower in future years.

Instances can be multiplied without number of the material assistance extended by Judge Jaggard to ambitious and deserving young men in their efforts as students, and later in the more serious pursuits of life. No such young man ever applied for counsel which was not graciously and freely given, or for assistance which was not extended with a generous hand. He was invariably tolerant, broad and sympathetic, and his fine heart qualities won their devotion; his mental attainments and abilities as a jurist, their admiration.

For fifteen years or more, students of Judge Jaggard in the Law School of the University of Minnesota have gone forth in the various avenues of life, and have assumed positions at the bar and on the bench, and in other pursuits; and time and again these men who have passed out from that influence have returned to the ever ready, cheerful adviser and comforter to renew the happy fellowship of their student years.

When in the fullness of time, Judge Jaggard was called from the bar to the bench, he became as judge what he had been as a law lecturer; the friend of the young man. By those means so well known to the Judge, with suggestions and advice, he constantly assisted the struggling young practitioner before him. No young man ever came into Judge Jaggard's court, especially when opposed by a seasoned, expert practitioner, without feeling that, in so far as it lay within the proper power of the Court to do so, in the presentation of his matter it should be upon equality with his more expert opponent. He had the same indescribably charming manner in the court room as in the lecture room, and without loss of dignity, it at once created the atmosphere of human kinship and tolerance which so distinguished him at all times and under all circumstances. These attributes were not alone discernible by those who had the privilege of being thrown into close contact with him as students, or members of his own profession, but extended in an all-embracing degree to laymen as well. This beautiful side of Judge Jaggard's character was accentuated by the fact that, as a Justice of this high Court, and a recognized international authority on several subjects of his chosen science, he remained as simple, unaffected and sincere in his manners, tastes and habits as in the early days of his own struggling professional career. His students were still his "boys," even though they occupied judicial or

other eminent positions, and as such were greeted, treated and loved by him. Other men may have had as wide a fame in their profession or inspired the love of their own circle of friends, but few ever had a wider, deeper or more genuine affection in the hearts of so many men in the legal profession as had Judge Jaggard, and when the news of his unexpected and untimely death flashed to his home state, there has rarely been more genuine or more intense sorrow experienced by so many men of all walks in life.

It has fallen to the lot of few men to so influence those upon whose shoulders, in time, must fall the more serious responsibilities of the commonwealth.

In the death of this eminent scholar and jurist, the State has lost a valued servant, but he has left a rich heritage, not only by reason of his labors on the bench, but in the full influence of his life, especially as a guide and coworker, a helper, and an inspiration to the younger members of the bar, not only as an instructor in the law but as a preceptor and as a brother in the lessons and struggles of life.

Chief Justice Start then said:

The Court will be glad to hear from other members of the bar.

HON. JOHN W. WILLIS then addressed the Court, and said:

May it please your Honors:

I am sure that no dissent from the eulogium which has been pronounced upon Edwin Ames Jaggard will ever be heard. The expressions of the memorial are just, and could not well be more than adequate because of the dignity, the importance and the amplitude of the subject to which they are addressed. Fortunate as was the State of Minnesota in acquiring Jaggard as a citizen, commensurate is the sadness of the bereavement which the state and its citizenship now experience.

When the district Court honored me with the position as examiner in law, and a young gentleman who had recently come from the state of Pennsylvania presented himself before that board for admission to the bar, the members of the examining board knew nothing except that his name was Jaggard, and that he handed us a certificate of graduation from Dickinson College and from the law department of the great University of Pennsylvania. But no sooner had the questioning begun than the excellence of his training, the scholarship which he possessed and the philosophical insight which he had obtained regarding the principles of jurisprudence became manifest, and, not to dwell too long upon this subject, it is one of those pleasant recollections which echo through the halls of memory to recall that Justice Jaggard and I always joked with each other when we met, over the fact that he could read the Latin of his certificates and translate it into good English; a test which no other applicant for admission to the bar was ever able to undergo with success.

I wish to emphasize only one characteristic of Judge Jaggard which, perhaps, has not been dwelt upon sufficiently. We hear much to-day of the responsibility of the scholar and of the desirability of having the scholar in politics, and having the attention of the scholar directed to the control and influence of public affairs. If we have ever had an example of the scholar in politics and the scholar in public affairs, such is the example of the lamented jurist towards whom our words of commemoration are this day directed. He was a scholar who did not treasure selfishly in his own heart and brain the learning of past ages and the learning of modern times,

but he placed it all at the disposal of his fellow citizens in a generous effort to help in every walk of life with the lessons drawn from the experience of the past and from the wisdom stored in the great libraries which the human race has accumulated. He was a glorious character in social life, an ornament to the Bar, a memorably successful jurist in the concluding years of his useful life, and all the recollections that can be gathered from the common people, from the members of our profession, and from the world at large will constitute an amaranthine wreath which will forever hang revered in the halls of Minnesota's memory.

Chief Justice Start then said:
Mr. Justice Bunn will respond for the Court.

Associate Justice Bunn then said:

Gentlemen, the Court is in full accord with your memorial and with the merited tributes to the late Justice Jaggard. I knew Justice Jaggard well. I knew him when we were both at the bar; I knew him as a lawyer trying cases before me after I went upon the district bench. We were closely associated on that bench for six years, and I have watched his work since he left that bench to adorn this with the peculiar interest that the trial judge has in the decisions of the higher court. I also knew Jaggard the fisherman and Jaggard the man.

As a lawyer he was learned in the law; a careful pleader; a close reasoner; a powerful advocate. As district judge, his record made during the six years that he held that position was such that he was called by the people of the state to the highest sphere of usefulness, the bench of the Appellate Court.

He served as an associate justice of this court a little over six years. His work here is preserved in Volumes 94 to 114. He wrote opinions in approximately four hundred cases, many of them important. His opinions bear conducive evidence of great research and are uniformly scholarly and illuminating. He had a great command of language and a wonderful facility in expressing his thoughts, and generally exhausted the law in each case. Indeed, many of his opinions are elaborate treatises. He loved to find the source of a legal principle and follow it down through its various branches even as he loved to follow a trout stream, not missing any prominent brook or rivule along the way. To quote Charles Lamb: "He was a brother of the angler, and just such a free, hearty, honest companion as Mr. Issac Walton would have chosen to go fishing with." He delighted in the waters, fields and woods. He really loved nature. He who knew Judge Jaggard around the camp fire after a strenuous day with the trout or bass, knew him at his best. He was delightful. Indeed, personally he was a lovable character and always a charming companion.

He was a remarkable public speaker, and a writer of great ability, .
His works on legal subjects will live.

But it is Jaggard the man that is most missed. He had more friends than most men, and they loved him. He was always courteous and thoughtful of others. He was kind and charitable. The guides on the river and trail, the janitors in the capitol, the servants in his club and in his home, are losers by his death. He was essentially a cheerful man, a true optimist. He loved life, and got much out of it. It is characteristic of the mart that while suffering from the incurable disease that caused his death, and knowing that his life might end at any time, he not only did not complain, but his greeting was as cheery, his smile as infectious, his company as enjoyable as

ever. His associates and intimate friends never knew of his condition. This was heroism, and, to me, wonderful. He was, if not happy himself, still the cause of happiness in others. The world can ill spare such a man.

Chief Justice Start then said:

Gentlemen of the Bar:

To live in hearts is never to die. Mr. Justice Jaggard lives in the loving remembrance of the Bench and Bar, and people of Minnesota, and it is fitting that your eloquent and just memorial should be entered of record, with the addresses in support of it, and, as a further tribute to his memory, that the Court now adjourn.

It is so ordered.